

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

VICTORIA MARIE ALFONSO

Case No. 2013-410

Registered Nurse License No. 498033

Respondent

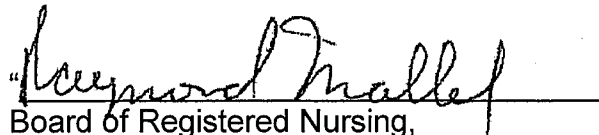
ORDER CORRECTING CLERICAL ERROR IN

DECISION AND ORDER

On its own motion, the Board of Registered Nursing (hereafter "Board") finds that there was a clerical error in the Decision and Order in the above-entitled matter and that such clerical errors should be corrected so that it will conform to the Board's intention as follows:

1. On or about February 26, 2013 a Decision and Order was issued adopting the Proposed Decision which erroneously showed the signature Louise R. Bailey as Board President.

IT IS HEREBY ORDERED that the signature on that Decision and Order in the above-entitled matter be and is hereby amended and corrected nunc pro tunc as should be as follows:


Board of Registered Nursing,
President
Department of Consumer Affairs
State of California"

IT IS SO ORDERED this 28th day of February, 2013.


BOARD OF REGISTERED NURSING,
PRESIDENT
DEPTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-410

13 **VICTORIA MARIE ALFONSO**
14 **14835 Ox Cart Lane**
15 **Draper, UT 84020**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

16 **Registered Nurse License No. 498033**

17 Respondent.

18 **FINDINGS OF FACT**

19 1. On November 20, 2012, Complainant Louise R. Bailey, M.Ed., RN, in her official
20 capacity as the Executive Officer of the Board of Registered Nursing, Department of Consumer
21 Affairs, filed Accusation No. 2013-410 against Victoria Marie Alfonso (Respondent) before the
22 Board of Registered Nursing. (Accusation attached as Exhibit A.)

23 2. On March 31, 1994, the Board of Registered Nursing (Board) issued Registered
24 Nurse License No. 498033 to Respondent. The Registered Nurse License expired on May 31,
25 2007, and has not been renewed.

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1 3. On November 20, 2012, Respondent was served by Certified and First Class Mail
2 copies of Accusation No. 2013-410, Statement to Respondent, Notice of Defense, Request for
3 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7)
4 at Respondent's address of record which, pursuant to California Code of Regulations, title 16,
5 section 1409.1, is required to be reported and maintained with the Board. Respondent's address
6 of record was and is 14835 Ox Cart Lane, Draper, UT 84020.

7 4. Service of the Accusation was effective as a matter of law under the provisions of
8 Government Code section 11505, subdivision (c) and Business & Professions Code section 124.

9 5. On December 5, 2012, the aforementioned documents were returned by the U.S.
10 Postal Service marked "Return To Sender Unable To Forward." The address on the documents
11 was the same as the address on file with the Board. Respondent failed to maintain an updated
12 address with the Board and the Board has made attempts to serve the Respondent at the address
13 on file. Respondent has not made herself available for service and therefore, has not availed
14 herself of her right to file a notice of defense.

15 6. Government Code section 11506 states, in pertinent part:

16 (c) The respondent shall be entitled to a hearing on the merits if the
17 respondent files a notice of defense, and the notice shall be deemed a specific
18 denial of all parts of the accusation not expressly admitted. Failure to file a notice
of defense shall constitute a waiver of respondent's right to a hearing, but the
agency in its discretion may nevertheless grant a hearing.

19 7. Respondent failed to file a Notice of Defense within 15 days after service upon
20 her of the Accusation, and therefore waived her right to a hearing on the merits of Accusation
21 No. 2013-410.

22 8. California Government Code section 11520 states, in pertinent part:

23 (a) If the respondent either fails to file a notice of defense or to appear at
24 the hearing, the agency may take action based upon the respondent's express
25 admissions or upon other evidence and affidavits may be used as evidence
without any notice to respondent.

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9. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on the relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as taking official notice of all the investigatory reports, exhibits and statements contained therein on file at the Board's offices regarding the allegations contained in Accusation No. 2013-410, finds that the charges and allegations in Accusation No. 2013-410, are separately and severally, found to be true and correct by clear and convincing evidence.

10. Taking official notice of its own internal records, pursuant to Business and Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation and Enforcement is \$607.50 as of December 19, 2012.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Victoria Marie Alfonso has subjected her Registered Nurse License No. 498033 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. The Board of Registered Nursing is authorized to revoke Respondent's Registered Nurse License based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Evidence Packet in this case.

4. Respondent has subjected her license to disciplinary action under Code section 2761, subdivision (a)(4), in that her Nevada registered nurse license has been disciplined in a disciplinary action entitled *In the Matter of Victoria Alfonso, Licensed Professional Nurse Nevada License No. RN25438 Respondent*. The State of Nevada Board of Nursing issued an Acceptance of Voluntary Surrender Of License/Certificate In Lieu Of Other Disciplinary Action Case No. 0127-11C dated March 22, 2012, based upon Respondent's unprofessional conduct, which constituted grounds for disciplinary action pursuant to Nevada Revised Statutes (NRS) 632.320, subdivision (1)(g).

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ORDER

IT IS SO ORDERED that Registered Nurse License No. 498033, heretofore issued to Respondent Victoria Marie Alfonso, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on MARCH 28, 2013.

It is so ORDERED FEBRUARY 26, 2013

Louise H. Bailey, A.Ed., RN
FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

70665197.DOC
DOJ Matter ID:SD2012704023

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
4 State Bar No. 101336
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-3037
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-410
13 **A C C U S A T I O N**

13 **VICTORIA MARIE ALFONSO**
14 **14835 Ox Cart Lane**
Draper, UT 84020

15 **Registered Nurse License No. 498033**

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about March 31, 1994, the Board of Registered Nursing issued Registered
24 Nurse License Number 498033 to Victoria Marie Alfonso (Respondent). The Registered Nurse
25 License expired on May 31, 2007, and has not been renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

6. Section 2761 of the Code states:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

....

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

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COST RECOVERY

7. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

CAUSE FOR DISCIPLINE

(Out Of State Discipline)

8. Respondent has subjected her license to disciplinary action under Code section 2761, subdivision (a)(4), in that she has had a professional license disciplined in another state. The circumstances are that her Nevada registered nurse license has been disciplined in a disciplinary action entitled *In the Matter of Victoria Alfonso, Licensed Professional Nurse Nevada License No. RN25438 Respondent*. The State of Nevada Board of Nursing (Nevada Board) issued an Acceptance of Voluntary Surrender Of License/Certificate In Lieu Of Other Disciplinary Action Case No. 0127-11C dated March 22, 2012, based upon Respondent's unprofessional conduct, which constituted grounds for disciplinary action pursuant to Nevada Revised Statutes (NRS) 632.320, subdivision (1)(g).

9. Based on the evidence before it, the Nevada Board made the following Findings of Fact:

a. Respondent was employed at the time of the events narrated in paragraphs (b), (c), (d), and (e), below, as a licensed Registered Nurse in the Neonatal Intensive Care Unit at Saint Mary's Regional Medical Center in Reno, Nevada.

b. On or about December 15, 2010, Respondent became very agitated throughout her work shift, including slamming drawers, and telling babies to be quiet. Further, Respondent was observed to have pulled the corner of a blanket, tumbling the infant out of the blanket, instead of picking up the infant to roll her over.

c. Respondent started the work shift with an in-service demonstration about how to set the new feeding pumps. However, Respondent had trouble setting and correctly adjusting the feeding pumps. After the first round of feedings with the new pumps, Respondent became increasingly frustrated and verbalized her negative thoughts about the feeding pumps.

d. Respondent was heard saying, "We'll take care of that," and observed turning up an infant's oxygen and walking away in the treatment of a patient suffering from oxygen de-saturation, and being treated with oxygen nasal cannula.

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e. Respondent was observed to have forced an infant's head into the bassinet mattress and forcibly hold a pacifier in the infant's mouth.

10. Based on the evidence before it, the Nevada Board made the following Conclusions of Law:

a. Respondent was at the time of the events narrated in paragraph 9, above, licensed as a Licensed Professional Nurse in the State of Nevada, and was, therefore, subject to the jurisdiction of the Nevada Board and the provisions of NRS chapter 632 and Nevada Administrative Code (NAC) chapter 632.

b. Respondent failed to perform nursing functions in a manner consistent with established or customary standards in violation of NAC section 632.890, subdivision (27).

c. Respondent caused a patient physical, mental, or emotional harm by taking direct or indirect actions or failing to take appropriate actions in violation of NAC section 632.890, subdivision (28).

d. Respondent demonstrated a pattern of practice errors despite repeated orientations and action plans in violation of NAC section 632.890, subdivision (39).

e. Voluntary Surrender of a professional license is considered a disciplinary action and will become part of Respondent's permanent record, is considered public information, and will be reported to any national repository, which records disciplinary action taken against licensees or certificate holders, or any agency or another state, which regulates the practice of nursing.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 498033, issued to Victoria Marie Alfonso;

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2. Ordering Victoria Marie Alfonso to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED:

November 20, 2012

fr LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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